

Montana Water Court  
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MONTANA WATER COURT, UPPER MISSOURI DIVISION  
MISSOURI RIVER FROM SUN RIVER TO MARIAS RIVER - BASIN 41Q

\* \* \* \* \*

CLAIMANTS: Geoffrey Stephenson; Deborah Stephenson

OBJECTORS: Geoffrey Stephenson; Deborah Stephenson

**CASE 41Q-0116-I-2023**

41Q 30130579

41Q 30130580

41Q 30130581

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

## **MASTER'S REPORT**

### **FINDINGS OF FACT**

1. Geoffrey Stephenson and Deborah Stephenson (the Stephensons) are the record owners of claims 41Q 30130579, 41Q 30130580, and 41Q 30130581.

2. Claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 were decreed with the following DNRC issue remark:

**THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41Q DECREE ISSUED 05/27/2010.**

The issue remark is a notice-type remark and does not require further proceedings.

3. The Stephensons objected to claims 41Q 30130579, 41Q 30130580, and 41Q 30130581. The Objections indicate the priority date for stock water claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 should be changed from December 31, 1920 to September 30, 1894. The Objection for claim 41Q 30130580 also indicates an information remark should be added indicating the spring described by the claim is the same spring referred to on deeds.

4. The Stephensons support the September 30, 1894 priority date for claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 with evidence attached to the Objections as an Addendum. Patent entry files show Lemuel H. Coe (LH Coe) settled the property to which the claims are appurtenant in September 1894 and George L. Coe (GL Coe) settled the property in the Spring of 1896. The Stephensons provided LH Coe's 1901 brand registration and early 1900s Great Falls Tribune articles referencing area settlers and ranchers LH Coe a GL Coe.

5. A deadline was set for the Stephensons to file additional information to support the request for a remark to be added to claim 41Q 30130580. (Doc.<sup>1</sup> 1.00). On July 3, 2023, the Stephensons filed a response describing a history of confusion regarding which claim the spring in the E2NESE of Section 15, Township 14 North, Range 7 East.

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<sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

(Doc. 2.00). The Stephensons request the following statement be added to claim 41Q 30130580:

THE SPRING IN THE E2NESE OF SECTION 15, T14N, R7E, THAT WAS IDENTIFIED IN THE WARRANTY DEED, RESERVATION OF EASEMENT, AND RESERVATION OF WATER RIGHT DATED SEPTEMBER 19, 2018, RECORDED ON SEPTEMBER 20, 2018 IN THE RECORDS OF CASCADE COUNTY, MONTANA DOCUMENT NUMBER R0361230 AND SUBSEQUENTLY REFERRED TO IN THE WARRANTY DEED DATED JANUARY 13, 2021, RECORDED ON JANUARY 15, 2021, IN THE RECORDS OF CASCADE COUNTY MONTANA DOCUMENT NUMBER R0402467, TO WHICH THE PROPERTY OWNER IN THE W2 SECTION 14, T14N, R7E, HAS A PERPETUAL AND NON-EXCLUSIVE EASEMENT TO, WAS REFERENCED AS PART OF 41Q 209299-00 IN THE 2019 DEED, HOWEVER, THIS SPRING IS ACTUALLY CLAIMED UNDER WATER RIGHT 41Q 30130580.

#### PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks decreed on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

3. The notice-type issue remarks decreed on claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 have served their purpose. As the objections to the claims in this Case have been resolved (see Recommendations, below), no further proceedings are required.

#### RECOMMENDATIONS

1. The priority date for claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 should be changed from December 31, 1920 to September 30, 1894.

2. The statement shown in Finding of Fact No. 5 should be added to claim 41Q 30130580, along with a statement indicating that it has been added to the claim at the request of the Stephensons.

3. The issue remarks should be removed from claims 41Q 30130579, 41Q

30130580, and 41Q 30130581.

4. The Stephensons' Objections to claims 41Q 30130579, 41Q 30130580, and 41Q 30130581 should be dismissed as their Objections have been resolved.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Geoffrey Stephenson  
Deborah Stephenson  
131 Erik Dr.  
Bozeman, MT 59715-1745

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MISSOURI RIVER, FROM SUN TO MARIAS RIVERS**  
**BASIN 41Q**

**Water Right Number:** 41Q 30130579 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GEOFFREY STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

DEBORAH STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

**Priority Date:** SEPTEMBER 30, 1894

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF CRAWFORD CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSW	14	14N	7E	CASCADE

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

2		SWNW	14	14N	7E	CASCADE
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**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWSW	14	14N	7E	CASCADE
2			SWNW	14	14N	7E	CASCADE

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MISSOURI RIVER, FROM SUN TO MARIAS RIVERS**  
**BASIN 41Q**

**Water Right Number:** 41Q 30130580 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GEOFFREY STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

DEBORAH STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

**Priority Date:** SEPTEMBER 30, 1894

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** 35.00 GPM

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** SPRING, UNNAMED TRIBUTARY OF CRAWFORD CREEK

**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENESE	15	14N	7E	CASCADE

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** SPRING BOX

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWSW	14	14N	7E	CASCADE
2			SWNW	14	14N	7E	CASCADE

**Remarks:**

ON JULY 3, 2023, CLAIMANTS GEOFFREY AND DEBORAH STEPHENSON REQUESTED THE FOLLOWING REMARK BE ADDED TO CLAIM 41Q 30130580, RESOLVING THEIR OBJECTION: THE SPRING IN THE E2NESE OF SECTION 15, T14N, R7E, THAT WAS IDENTIFIED IN THE WARRANTY DEED, RESERVATION OF EASEMENT, AND RESERVATION OF WATER RIGHT DATED SEPTEMBER 19, 2018, RECORDED ON SEPTEMBER 20, 2018 IN THE RECORDS OF CASCADE COUNTY, MONTANA DOCUMENT NUMBER R0361230 AND SUBSEQUENTLY REFERRED TO IN THE WARRANTY DEED DATED JANUARY 13, 2021, RECORDED ON JANUARY 15, 2021, IN THE RECORDS OF CASCADE COUNTY MONTANA DOCUMENT NUMBER R0402467, TO WHICH THE PROPERTY OWNER IN THE W2 SECTION 14, T14N, R7E, HAS A PERPETUAL AND NON-EXCLUSIVE EASEMENT TO, WAS REFERENCED AS PART OF 41Q 209299-00 IN THE 2019 DEED, HOWEVER, THIS SPRING IS ACTUALLY CLAIMED UNDER WATER RIGHT 41Q 30130580.

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MISSOURI RIVER, FROM SUN TO MARIAS RIVERS**  
**BASIN 41Q**

**Water Right Number:** 41Q 30130581 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GEOFFREY STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

DEBORAH STEPHENSON  
131 ERIK DR  
BOZEMAN, MT 59715 1745

**Priority Date:** SEPTEMBER 30, 1894

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF CRAWFORD CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2NW	14	14N	7E	CASCADE

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2NW	14	14N	7E	CASCADE